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MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
			EXAMINER RAMPURIA, SHARAD K	
			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/732,784	Applicant(s) DENNISSON ET AL.	
	Examiner Sharad Rampuria	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12-21 and 23-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,12-21 and 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

I. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

II. The current office-action is in response to the amendment/arguments filed on 2/2/06. Accordingly, Claims 11, 22 & 33 are cancelled and Claims 1-10, 12-21 and 23-32 are pending for further examination as follows:

Claim Rejections - 35 USC § 103

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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IV. Claims 1-3, 6-7, 10, 12-14, 17-18, 21, 23-25, 28-29 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio et al. [US 20040057420] in view of Milford et al. [US 20030224781].

As per Claim 1, Curcio disclose:

A method of operating a communication network (Abstract), comprising:

Providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

Curcio fails to teaches all the particulars of the claim except obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, Milford teaches in an analogous art, that obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Curcio including obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the

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wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of apparatus and methods to efficiently organize and accommodate the delivery of variable products and services to variable types of users.

As per Claim 2, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 3, Curcio disclose:

The method of claim 2, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 6, Curcio disclose:

The method of claim 1, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 7, Curcio disclose:

The method of claim 1, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 10, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

As per Claim 12, Curcio disclose:

A communication system (Abstract), comprising:

Means for providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Means for transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

Curcio fails to teaches all the particulars of the claim except obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one

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mobile terminal for the streaming media. However, Milford teaches in an analogous art, that Means for obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Curcio including obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of apparatus and methods to efficiently organize and accommodate the delivery of variable products and services to variable types of users.

As per Claim 13, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 14, Curcio disclose:

The system of claim 13, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple

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access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 17, Curcio disclose:

The system of claim 12, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 18, Curcio disclose:

The system of claim 12, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 21, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

As per Claim 23, Curcio disclose:

A computer program product (i.e. CPU; Pg.6; 0111) for operating a communication network (Abstract), comprising:

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A computer readable storage medium having computer readable program code embodied therein, the computer readable program code (i.e. CPU; Pg.6; 0111) comprising:

Computer readable program code (i.e. CPU; Pg.6; 0111) configured to provide a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Computer readable program code (i.e. CPU; Pg.6; 0111) configured to transmit streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

Curcio fails to teaches all the particulars of the claim except obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. However, Milford teaches in an analogous art, that Computer readable program code configured to obtain authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media. (i.e. subscription; Pg.4; 0044) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Curcio including obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network; and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media in order to provide a series of apparatus and methods to efficiently organize and accommodate the delivery of variable products

and services to variable types of users.

As per Claim 24, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 25, Curcio disclose:

The computer program product of claim 24, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 28, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises text and/or audio content. (i.e. video/audio; Pg.7; 0146)

As per Claim 29, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises video content. (i.e. video/audio; Pg.7; 0146)

As per Claim 32, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

V. Claims 4-5, 8-9, 15-16, 19-20, 26-27 & 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio and Milford further in view of Inselberg [US 20040171381].

As per claim 4, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 5, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 4, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 8, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 9, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video

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conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 15, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 16, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 15, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 19, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a television broadcast, an

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amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 20, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 26, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 27, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of

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claim 26, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a IEEE 802.11b technology in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 30, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include AM, FM radio broadcast in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 31, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a video conference and/or a gaming application in order to provide a method and apparatus for interactive audience participation at live spectator events.

Response to Amendments & Arguments

VI. *Applicant's arguments filed on 2/2/2006 have been fully considered but they are not persuasive.*

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Milford teaches a technique for standardization of resource definition is made possible through the Service Broker. Therefore, resources need not be limited to resources that are made available by a limited number of operators. Instead, the Service Broker can handle offerings of available resources made widely available by any supplier or proprietor of telecommunications resources, having available capacity to let or perhaps to sub-let. Thus it is possible to accommodate priority preferences and variable pricing, facilitating competition in the supply and use of services. Subscription arrangements can be used. Subscribers with excess available telecommunication resource capacity can contract to obtain credit when the capacity is used by others. The invention is applicable to high level network operators, communications service suppliers, operators of subnets coupled to networks, proprietors of servers, or owners of capacity to run telecommunication applications and media services on servers that may be owned

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by others. From the operator/supplier perspective, potentially limited capacity is allocated efficiently in a way that permits close cost accounting and utilization control. From the user's perspective, the scope of available resources is made equal to a maximum subset of available resources that the user is capable of exploiting, which resources are made available to be invoked selectively and in a predictable fashion via the Service Broker. (Please perceive Pg.4; 0044; Pg.4; 0051; Pg.5; 0054) by assigning of resources to users based on a number of factors including authorizations, which is in the same field of endeavor as Curcio. Therefore, one skill in the art would recognize the combination of the above two references is proper.

Hence, it is believed that *Milford still teaches the claimed limitations*.

For that reason, it is believed and as enlighten above, the rejections should be sustained.

Conclusion

VII. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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VIII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870.

The examiner can normally be reached on M-F. (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2617



GEORGE ENG
SUPERVISORY PATENT EXAMINER